

(9)
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1728/99
M.A. No.1877/99

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, the 17th January, 2000

Ashok Kumar S/o Sh. Vishnu Dutt
T.G.T. (Science)
Govt. Boys Middle School
Bharat Nagar, Delhi 110 052
R/o 41-D, Admn. Flats
Nimri Colony, Delhi 110 052 Applicant

(By Advocate: Shri C.B. Pillai)

Versus

1. Govt. of National Capital Territory of Delhi
through its Chief Secretary
Old Secretariat, Delhi
2. The Director of Education
Directorate of Education
Old Secretariat, Delhi
3. The Jt. Director of Education (Admn)
Directorate of Education
Old Secretariat, Delhi
4. The Education Officer
Zone XI Distt. North West
FU Block, Pitampura Delhi 34
5. Shri Sukhbir Singh Rana
Yoga Teacher
Govt. Boys Middle School
Bharat Nagar, Delhi 110 052 Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R

Hon'ble Smt. Shanta Shastry, Member(A)

The applicant is aggrieved that a Teacher who is much junior to him has been placed as in-charge of the Govt. Boys Model School, Bharat Nagar with effect from 1.12.1998 where the applicant is working. He has, therefore, prayed that the impugned order dated 1.12.1998 be quashed and set aside and directions be issued to the respondents to declare the applicant, who is the senior-most Trained Graduate Teacher (TGT) in the School as In-charge of the School. The applicant has

D further prayed that respondent No.5 should not write his annual confidential report.

2. The brief facts of the case are that the applicant is presently working as a TGT(Science) in the Govt. Boys Middle School, Bharat Nagar, Delhi. One Shri K.K. Sharma, TGT was earlier working as In-charge of the Govt. Boys Middle School, was transferred and relieved of his duties on 30.11.1998 with the instructions to report to the Assistant Director Education (Litigation). After transferring Shri K.K. Sharma, the respondents appointed respondent No.5 Shri S.S.Rana, Yoga Teacher in the same School as In-charge of the said School with effect from 1.12.1998.

3. The applicant's contention is that he fulfills all the requirements in regard to seniority, length of service and educational qualifications and he is the senior-most TGT in the School after the transfer of Shri K.K.Sharma. It is against the principles of natural justice that a person much junior to him has been made In-charge of the School disregarding the principles of seniority and other norms followed in the matter of selection of In-charge. The applicant states that all the teachers, excluding respondent No.5, had submitted a joint memorandum dated 26.11.1998 requesting the Education Officer to declare the applicant as In-charge. Shri Rana, respondent No.5, joined service on 10.1.1983 and has a qualification of Bachelor of Physical Education and one year diploma in Yoga, as against the applicant who

joined on 4.3.1972 and who is B.Sc. B.Ed. The applicant represented to the Education Officer, i.e. respondent No.4, on 8.12.1998 to undo the injustice. He submitted further representations to the Joint Director of Education(Admn) on 23.2.1999 and to the Director of Education on 2.6.1999. However, no action was taken on his representations and his junior continued to function as the In-charge of the School. The applicant also has expressed the apprehension that he will be subjected to the humiliation of his annual confidential report being written by a junior Teacher. The applicant also asserts that in all the Middle Schools under the Directorate of Education, the senior-most Teacher is made the In-charge of the School. Therefore, no exception should be made in respect of this School also and the applicant should have been considered for the Inchargechip of the School being the senior-most. The applicant is, therefore, pressing that he should be made the In-charge of the School and the junior Teacher should be removed.

4. The learned counsel for the respondents, during the course of the hearing, informed that the respondents have already replaced Shri Rana by appointing one Shri R.R. Sehrawat, Vice Principal of the Govt. Boys Senior Secondary School, Bharat Nagar as the In-charge of the Govt. Boys Middle School, Bharat Nagar with effect from 11.8.1999 vide order dated 11.8.1999 and Shri Sehrawat has taken charge accordingly. Therefore, the O.A. has become

infructuous as the grievance of the applicant that a person junior to him was placed as In-charge of the School has now been removed. The applicant, however, in his rejoinder has claimed that the posting of Shri R.R. Sehrawat and later Shri B.R. Sharma, Vice Principal as In-charge of the Govt. Boys Middle School, Bharat Nagar has been done with the mala-fide intention to deprive him the Incharge-ship as there is no post of Vice Principal in the Govt. Boys Middle School, Bharat Nagar or any other School. In all the Middle Schools, the senior-most Teacher is made the In-charge and the applicant is entitled to be designated as the In-charge. Denying him this right to the exclusion of all the others similarly is discriminatory and violative of Articles 14 and 16 of the Constitution of India. The applicant denies that his O.A. has become infructuous after the appointment of the Vice Principal. The applicant has once again pleaded that he should be designated as the In-charge of the School as is the practice in all the Middle Schools.

5. The learned counsel for the respondents submits that the respondents are at liberty to make any internal arrangement. The main grievance of the applicant that his junior was placed In-charge of the School has now been taken care of by putting a senior person, i.e. a Vice Principal as In-charge of the School and therefore the applicant should not have any grouse now.

6. The learned counsel for the respondents Shri Vijay Pandita points out that the action of the respondents is not discriminatory. The respondent No.5 who was earlier put In-charge of the School had to be replaced because of a complaint that certain instances had come to the notice that he was transgressing his authorities. Therefore, the Directorate had recommended immediate steps to be taken for posting of a Vice Principal in this School vide his letter dated 29.7.1999 addressed to the Additional Director of Education (Admn.). By a note below this letter it was directed that the Vice Principal of Govt. Boys Sr. Secondary School, Bharat Nagar may be deputed immediately. Thus there was a valid reason for placing a Vice Principal as In-charge of the School. Since the Vice Principal is senior to the applicant, he should really have no grievance about his not being made the In-charge of the School. Since the respondents have appointed a Vice Principal as In-charge in certain special circumstances, we would not like to interfere with the said arrangement. However, this should not come in the way of the respondents in reconsidering the request of the applicant to be made In-charge of the School, he being the senior-most Teacher, as the practice in respect of all the Middle Schools is to put the senior-most Teacher In-charge of the School.

7. The O.A. is accordingly disposed of with the above observations. No costs. So also the M.A. No.1877/1999 is disposed off with this order.

Shanta Shastri
(Smt. Shanta Shastri)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)